

the foreign corporation bears no substantial economic risk with respect to the purchase and sale other than the risk of non-payment, the foreign corporation has not in substance derived income from the sale of property.

(5) *Receivables arising from performance of services.* If payment for services performed by a controlled foreign corporation is not made until more than 120 days after the date on which such services are performed, then the income derived by the foreign corporation constitutes income equivalent to interest to the extent that interest income would be imputed under the principles of section 483 or the original issue discount provisions (section 1271 *et seq.*), if—

(A) Such provisions applied to contracts for the performance of services,

(B) The time period referred to in sections 483(c)(1) and 1274(c)(1)(B) were 120 days rather than six months, and

(C) The time period referred to in section 483(c)(1)(A) were 120 days rather than one year.

[T.D. 8216, 53 FR 27498, July 21, 1988; 53 FR 29801, Aug. 8, 1988, as amended by T.D. 8556, 59 FR 37672, July 25, 1994. Redesignated and amended by T.D. 8618, 60 FR 46530, Sept. 7, 1995]

PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

Sec.

5.856-1 Extensions of the grace period for foreclosure property by a real estate investment trust.

5.1502-45 Limitation on losses to amount at risk.

5.1561-1 Taxable years of component members of controlled group of corporations that include December 31, 1978.

5.6411-1 Tentative refund under claim of right adjustment.

AUTHORITY: 26 U.S.C. 7805.

§ 5.856-1 Extensions of the grace period for foreclosure property by a real estate investment trust.

(a) *In general.* Under section 856(e), a real estate investment trust ("REIT") may elect to treat as foreclosure property certain real property (including interests in real property), and any personal property incident to such real property, that the REIT acquires after

December 31, 1973. In general, the REIT must acquire the property as the result of having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was default (or default was imminent) on a lease of such property (where the REIT was the lessor) or on an indebtedness owed to the REIT which such property secured. Property that a REIT elects to treat as foreclosure property ceases to be foreclosure property with respect to such REIT at the end of a grace period. The grace period ends on the date which is 2 years after the date on which the REIT acquired the property, unless the REIT has been granted an extension or extensions of the grace period. If the grace period is extended, the property ceases to be foreclosure property on the day immediately following the last day of the grace period, as extended.

(b) *Rules for extensions of the grace period.* In general, § 1.856-6(g) prescribes rules regarding extensions of the grace period. However, in order to reflect the amendment of section 856(e)(3) of the Code by section 363(c) of the Revenue Act of 1978, the following rules also apply:

(1) In the case of extensions granted after November 6, 1978, with respect to extension periods beginning after December 31, 1977, the district director may grant one or more extensions of the grace period for the property, subject to the limitation that no extension shall extend the grace period beyond the date which is 6 years after the date the REIT acquired the property. In any other case, an extension shall be for a period of not more than 1 year, and not more than two extensions can be granted with respect to the property.

(2) In the case of an extension period beginning after December 31, 1977, a request for an extension filed on or before March 28, 1980, will be considered to be timely if the limitation on the number and length of extensions in section 856(e)(3), as in effect before the amendment made by section 363(c) of the Revenue Act of 1978, would have barred the extension.

[T.D. 7767, 46 FR 11284, Feb. 6, 1981]